

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$4,875.95 for date of service, 08/13/01.
- b. The request was received on 07/26/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. UB-92 (s)
 - c. EOB/TWCC 62 forms/Medical Audit summary
 - d. Medical Records
 - e. Example EOBs from other carriers
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60
 - b. UB-92(s)
 - c. Medical Audit summary/EOB/TWCC 62 form
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (4), the Division forwarded a copy of the requestor's additional documentation to the carrier on 09/09/02. The respondent did not respond to the additional documentation. It's initial response is reflected in Exhibit II.
4. Notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 09/03/02

“...the Carrier did not provide any documentation of a developed or consistently applied methodology, which was used in reducing payment for the treatment/service in question....(Requestor) made an extensive review of payments and reimbursements, made by various Carriers from the geographical area of Texas for treatment, services and supplies utilized for both work-related and non-work related injuries. As a result of that review, (Requestor) was able to determine the usual amounts reimbursed by Carriers for treatment, services, and supplies from (Requestor) for both work-related and non-work related treatment in the state of Texas at their facility.”

2. Respondent: No response statement found.

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 08/13/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor's Table of Disputed Services, the Requestor billed the Carrier \$9,448.75 for services rendered on the date in dispute above.
4. Per the Requestor's Table of Disputed Services, the Carrier paid the Requestor \$1,788.80 for services rendered on the date in dispute above.
5. The Carrier's EOBs denied any additional reimbursement as “G –UNBUNDLING INCLUDED IN ANOTHER BILLED PROCEDURE” and “M –NO MAR SET BY TWCC-REDUCED TO FAIR AND REASONABLE”. There is no MAR value for ambulatory surgical facility centers; therefore this dispute will be reviewed as reduced to fair and reasonable.
6. Per the Requestor's Table of Disputed Services, the amount in dispute is \$4,875.95 for services rendered on the date in dispute above.

V. RATIONALE

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011 (d) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.307 (g) (3) (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i) (1-4) places certain requirements on the Carrier when reducing the billed amount to fair and reasonable. The burden is on the provider to show that the amount of reimbursement requested is fair and reasonable.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine which party has provided the most persuasive evidence of what is fair and reasonable. The Carrier has not submitted any evidence as to how they determined their reimbursement amount. No methodology was submitted as required by Rule 133.304 (i). The Provider, who has the burden as the Requestor, to prove its fees are fair and reasonable has not provided sufficient information that supports its fees billed are fair and reasonable. Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 25th day of March 2003.

Denise Terry
Medical Dispute Resolution Officer
Medical Review Division

DT/dt